

**OPINION  
59-166**

June 9, 1959 (OPINION)

MINING AND GAS AND OIL PRODUCTION

RE: Control of Gas and Oil Resources - Jurisdiction of Commission - Bonds

This is in reply to your letter of June 2, 1959, in which you state that the recent Legislature enacted a law amending the 1953 Oil and Gas Conservation Statute insofar as the requirement of a drilling bond is concerned. You ask the opinion of this office on the following points:

1. Will it be necessary for the surety on bonds currently in force to supply some form of acknowledgement that the bonds now in effect comply with the provisions of the act as amended?
2. Will it be necessary for us to revise the present Bond forms? If so, what wording should be used?
3. What notice, if any, must be supplied to the Surety by this office relative to this bond change?"

It is noted that Senate Bill No. 99, to which you have reference, amends subdivision d of subsection 1 of section 38-0804 of the 1957 Supplement of the North Dakota Revised Code of 1943 to read as follows:

. . .

The commission acting through the office of the state geologist has the authority:

1. To require:

. . . .

- d. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of Chapter 38-08 of the North Dakota Revised Code of 1943 and amendments thereto, and the rules and regulations of the Industrial Commission of the State of North Dakota prescribed to govern the production of oil and gas on state and private lands within the State of North Dakota."

The bond form which is being used at the present time provides in part as follows:

NOW THEREFORE, if said principal, in its operations after the execution of permit by the State Geologist of the State of North Dakota shall fully comply with said Chap. 38-08 N.D.R.C. and amendments thereto, and the Rules and Regulations of the

Industrial Commission of the State of North Dakota prescribed to govern the production of oil and gas on State and Private lands within the State of North Dakota, then and in that event the above obligation shall be void, otherwise to remain in full force and effect."

The Industrial Commission has apparent authority to require a bond more broad in its scope than that provided for in section 38-0804(1)(d) before it was amended. (See enclosed opinion dated August 13, 1956.) Since the bond presently being used is in the form required by section 38-0804(1)(d) as amended, it is the opinion of this office that no acknowledgment that the bonds now in effect comply with the provisions of the act as amended need be supplied. Since the bond presently being used is already in the form required by section 38-0804(1)(d) as amended, it will not be necessary to revise such form.

In answer to your third question, while no notice must necessarily be supplied to the sureties it might be well, to avoid confusion on the matter, to supply them with a notice of the amendment.

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Attorney General